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Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Implementation of the)
Telecommunications Act of 1996;)

Telemessaging, Electronic Publishing,)
and Alarm Monitoring Services)

CC Docket No. 96-152

REPLY COMMENTS OF TIME WARNER CABLE

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TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION AND SUMMARY.....	1
II. BOCS MUST NOT BE PERMITTED TO CIRCUMVENT SECTION 274'S JOINT MARKETING RESTRICTIONS. (§ III(C))	3
III. THE COMMISSION SHOULD ESTABLISH STRICT PROHIBITIONS ON SHARING OF PERSONNEL, SERVICES, AND EQUIPMENT BETWEEN BOCS AND THEIR AFFILIATES AND ELECTRONIC PUBLISHING JOINT VENTURES. (§§ III(B), (C))	10
IV. IF A BOC COMBINES ITS SECTION 272 SERVICES AND SECTION 274 SERVICES IN ONE AFFILIATE, THAT AFFILIATE'S OPERATIONS AND STRUCTURE MUST BE CONTROLLED BY THE TERMS OF BOTH SECTIONS. (§ III(B))	12
V. BOTH SEPARATED AFFILIATES AND JOINT VENTURES MUST BE OPERATED INDEPENDENTLY OF THE BOC. (§§ III(B), (C), (D))	16
A. Exceptions For Joint Ventures Should Be Limited To The Express Terms Of The Statute. (§§ III(B), (C), (D))	16
B. Section 274 Requires BOCs To Operate Independently Of Their Separated Affiliates And Joint Ventures. (§§ III(B), (C), (D))	18
VI. CONCLUSION.....	20

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Time Warner Cable, a division of Time Warner Entertainment Company, L.P. ("Time Warner"), hereby submits its Reply Comments in the above-captioned proceeding.¹

I. INTRODUCTION AND SUMMARY.

Congress designed section 274's structural separation safeguards and joint marketing restrictions to further the development of electronic publishing competition by limiting BOCs' opportunity to leverage their local telephone monopolies into that market.² Recognizing that competition in the long run for all telecommunications and information services cannot be achieved if BOCs are permitted to cross-subsidize, discriminate in the provision of essential facilities, and otherwise leverage their local telephone monopoly into adjacent markets, Congress

¹ Implementation of the Telecommunications Act of 1996; Telemessaging, Electronic Publishing and Alarm Monitoring Services, CC Docket No. 96-152, Notice of Proposed Rulemaking, FCC 96-310 (released July 18, 1996) ("Notice").

² See Notice at ¶ 7-8.

sought to protect competition in adjacent markets until such time as the BOCs no longer possess the ability to inhibit competition.³ As demonstrated in Time Warner's comments in this proceeding, the BOCs' ability to engage in anticompetitive behavior is real and substantial.⁴

Given these facts, any circumvention of the safeguards required by section 274 would undermine the protections Congress envisioned and threaten the future of electronic publishing competition. Generally, the comments of many of the BOCs in this proceeding seem designed to effect just such a circumvention by inhibiting the efficacy of the restrictions mandated by section 274. Therefore, the Commission must implement its regulations pursuant to section 274 with care to prevent BOCs from accomplishing this result.

Specifically, the Commission should:

- prohibit separated affiliates from jointly marketing BOC local exchange service with electronic publishing;

³ See id. at ¶ 9.

⁴ See Implementation of the Telecommunications Act of 1996; Telemessaging, Electronic Publishing and Alarm Monitoring Services, CC Docket No. 96-152, Comments of Time Warner Cable at 607 (filed Sept. 4, 1996) ("Time Warner Electronic Publishing Comments"). However, because the use of a BOC's local exchange services triggers the safeguards of section 274, the out-of-region electronic publishing operations of a BOC, or its affiliates or joint ventures are not subject to section 274's safeguards (because those out-of-region operations do not use the BOC's local exchange services). Moreover, because the BOC does not enjoy monopoly power over local exchange facilities outside its service region, the concern for BOC anticompetitive behavior in out-of-region electronic publishing activities is diminished.

- construe section 274's joint venture provision to prohibit joint marketing, as required by the plain language of section 274(c)(2)(C);
- require BOCs to offer inbound telemarketing to all electronic publishers on a nondiscriminatory basis if they offer such services to a separated affiliate, electronic publishing joint venture, or affiliate;
- reject BOC assertions that the "business or teaming arrangements" provided for in section 274 allow them to jointly market local telephone service with the electronic publishing services offered by separated affiliates and joint ventures;
- clarify that BOCs offering interLATA information services and electronic publishing through a single structurally separate affiliate are required to comply with the terms of both section 272 and section 274;
- construe the provisions of section 274(c)(2)(A)-(C) in a manner consistent with the overriding requirement that BOCs operate independently from electronic publishing separated affiliates and joint ventures; and
- apply the same independent operation requirement to both separated affiliates and joint ventures.

II. BOCS MUST NOT BE PERMITTED TO CIRCUMVENT SECTION 274'S JOINT MARKETING RESTRICTIONS.

The fact that many of the BOCs seek to evade their obligations under section 274 is particularly evident in their comments on the joint marketing restrictions imposed by the

statute. Specifically, BOCs seek to accomplish through affiliates what they cannot accomplish directly; BOCs press for an interpretation of section 274's joint venture provision that would allow unrestricted joint marketing; BOCs argue for limitations on their obligation to offer inbound telemarketing to all electronic publishers on a nondiscriminatory basis if they offer such services to a separated affiliate, electronic publishing joint venture, or affiliate; and BOCs assert that the "business or teaming arrangements" provided for in section 274 allow them to jointly market all manner of services with separated affiliates and joint ventures. As set forth below, these arguments are without merit and should be rejected.

Some BOC commenters claim that their electronic publishing separated affiliates may provide services to their BOC parents, even if the BOC is prohibited from providing those services to the affiliate.⁵ More specifically, several BOCs assert that a BOC's electronic publishing separated affiliate may engage in marketing activities for the BOC; only the reverse is prohibited.⁶ These assertions defy the logic of the 1996 Act's safeguards and, if adopted, would convert the section 274 structural separation safeguards into a large loophole for evasion of the requirements of the 1996 Act. The Commission has already indicated that it will not tolerate circumvention of the

⁵ See Bell Atlantic Comments at 9; NYNEX Comments at 18; USTA Comments at 5.

⁶ See id.

clear statutory requirements of section 272,⁷ and it should unambiguously reject such efforts in the provision of electronic publishing services.

As Time Warner emphasized in its initial comments, a lack of structural safeguards with respect to marketing increases the likelihood of monopoly leveraging and impairment of the development of competition in electronic publishing.⁸ Absent effective separation, BOCs and their affiliates will operate as virtually the same company in violation of the express intent of Congress.⁹ The grave potential for anticompetitive abuses inherent in joint marketing led Congress to expressly prohibit a BOC and its separated affiliate from combining their marketing efforts.¹⁰

⁷ See Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, CC Docket No. 96-149, Notice of Proposed Rulemaking, FCC 96-308 at ¶ 79 (released July 18, 1996) ("we tentatively conclude that Congress did not intend for a BOC to be able to move its incumbent local exchange operations to an affiliate in order to avoid complying with section 272(c)").

⁸ See Time Warner Electronic Publishing Comments at 6-7.

⁹ See 47 U.S.C. § 274(b) ("A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company").

¹⁰ See id. at § 274(c)(1)(A) ("a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate"); see also id. at § 274(c)(1)(B) ("a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing").

The words of Congress are clear: not only is a BOC prohibited from marketing on behalf of its separated affiliate, but so too is the separated affiliate prohibited from marketing on behalf of the BOC. The statute prohibits a BOC from carrying out marketing "for or in conjunction with" its separated affiliate.¹¹ The term "for" has a meaning separate from the phrase "in conjunction with." Yet the BOCs attempt to persuade the Commission to ignore the separate meaning. Because the prohibition includes BOC marketing "for or in conjunction with" an affiliate, it encompasses the BOC as active marketer "for" the affiliate. The prohibition also includes the BOC as passive receiver of benefits from marketing "in conjunction with" the affiliate.

The statutory language barring joint marketing refers to the stand-alone marketing activities of two entities (e.g., the marketing of the BOC's local telephone service and the marketing of the affiliate's electronic publishing services offered over the BOC's local telephone service) combined in an effort to benefit simultaneously both entities.¹² This definition applies regardless of the entity responsible for providing the marketing services. The Commission must give effect to the express words of the statute¹³ and, therefore, is compelled to prohibit not

¹¹ 47 U.S.C. § 274(c)(1)(A) and (B).

¹² See Time Warner Electronic Publishing Comments at 25.

¹³ See Astoria Fed'l Savings & Loan v. Solimino, 501 U.S. 104, 112 (1991) ("we construe statutes, where possible, so as to avoid rendering superfluous any parts thereof"); see also Mail Order Ass'n of America v. U.S. Postal Service, 986 F.2d 509, 515

only BOC marketing on behalf of its separated affiliate, but also the reverse.

The BOCs also assert that marketing prohibitions applicable to separated affiliates do not apply to joint ventures.¹⁴ However, such a broad interpretation of section 274 would allow the exception to swallow the rule. A BOC must be prohibited from jointly marketing its local exchange services with the electronic publishing services of its joint venture, where such services are disseminated by means of the local telephone services of the BOC (or its affiliates). The language of section 274(c)(2)(C) allows a BOC to provide promotion, marketing, sales, or advertising personnel to an electronic publishing joint venture; it does not allow the BOC to market its local telephone service jointly with electronic publishing, nor does it allow the joint venture to market its electronic publishing services jointly with the BOC's local telephone service. Moreover, the independent operation requirement of section 274(b) (which is fully applicable to joint ventures), and the incentives and abilities of BOCs to provide bundling discounts through clever marketing schemes all necessitate this clear prohibition.¹⁵

(D.C. Cir. 1993) ("we are to construe statutes, where possible, so that no provision is rendered 'inoperative or superfluous, void or insignificant'") (citations omitted).

¹⁴ See Bell Atlantic Comments at 8; BellSouth Comments at 17; Joint Parties Comments at 2; SBC Comments at 12; USTA Comments at 5.

¹⁵ See Time Warner Electronic Publishing Comments at 26-27.

Additionally, the 1996 Act permits a BOC to provide inbound telemarketing services to its separated affiliate or joint venture, provided that the BOC also offers such services on nondiscriminatory terms to all electronic publishers on request.¹⁶ However, some BOCs claim that a BOC need only provide inbound telemarketing to competing electronic publishers offering electronic publishing services "comparable" to those offered by the BOC's separated affiliate.¹⁷ Presumably, the BOCs envision themselves as the arbiters of what constitutes "comparable." Congress did not limit the mandatory inbound telemarketing services to "comparable" electronic publishing services.¹⁸ Further, the 1996 Act lacks any indication that Congress believed the BOCs to be the proper entities to interpret and police the provisions of the statute. Hence, the Commission should summarily reject any suggestion that inbound telemarketing services need only be provided to competitors providing "comparable" electronic publishing services at the BOCs' discretion.

Finally, several BOCs argue that the "business or teaming arrangements" provided for in section 274(c)(2)(B) permit joint marketing by BOCs and their separated affiliates.¹⁹ Indeed, SBC

¹⁶ See 47 U.S.C. § 274(c)(2)(A).

¹⁷ See U S WEST Comments at 11.

¹⁸ See 47 U.S.C. § 274(c)(2)(A).

¹⁹ See NYNEX Comments at 22; SBC Comments at 12, 15; Pac Tel Comments at 16-18. See also Bell Atlantic Comments at 10; BellSouth Comments at 19.

urges that the Commission allow BOCs and their separated affiliates to "jointly promote, market, sell and advertise their respective services pursuant to any form of business arrangement reached between them,"²⁰ while Pac Tel states that BOCs and electronic publishers "both should be allowed to be involved in selling the total service in whatever manner is most efficient and productive. . . ." ²¹ Such arguments are entirely contrary to the plain language of the statute and must be rejected.

Section 274(c)(2)(B) provides that a BOC may engage in nondiscriminatory business or teaming arrangements if "(i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement."²² The statutory language is unequivocal; BOCs may only provide facilities, services and information which are otherwise authorized in section 274. Therefore, section 274(c)(2)(B) is not carte blanche for BOCs to engage in joint marketing and other prohibited activities; it merely preserves BOC authority to provide such facilities and services to electronic publishing affiliates and joint ventures as are otherwise permitted under section 274. A contrary interpretation would render section 274 a nullity and should be rejected.

²⁰ SBC Comments at 15.

²¹ Pac Tel Comments at 17.

²² 47 U.S.C. § 274(c)(2)(B) (emphasis added).

III. THE COMMISSION SHOULD ESTABLISH STRICT PROHIBITIONS ON SHARING OF PERSONNEL, SERVICES, AND EQUIPMENT BETWEEN BOCs AND THEIR AFFILIATES AND ELECTRONIC PUBLISHING JOINT VENTURES.

Several BOC commenters contend that BOCs may provide almost any service to their separated affiliates. They assert that BOCs may provide to their separated affiliates services such as human resources,²³ corporate strategic planning,²⁴ public relations,²⁵ regulatory planning and management,²⁶ information systems management,²⁷ shared use of property,²⁸ property leases,²⁹ and research and development benefits.³⁰ Bell Atlantic goes so far as to claim that a BOC may provide any service to a separated affiliate so long as the equipment providing the service is owned by the BOC.³¹ The BOCs' interpretation of section 274 leaves very little of an affiliate to be "separated" from the BOC and is expressly contrary to the statute.

Section 274(b)(7) provides detailed, express prohibitions on the lawful sharing of services between a BOC and a separated

²³ See NYNEX Comments at 15.

²⁴ See id.

²⁵ See id.

²⁶ See id.

²⁷ See id.

²⁸ See Ameritech Comments at 13; BellSouth Comments at 15; NYNEX Comments at 9-10; Pac Tel Comments at 11; SBC Comments at 8; U S WEST Comments at 19; USTA Comments at 4.

²⁹ See id.

³⁰ See Ameritech Comments at 15; Bell Atlantic Comments at 6; BellSouth Comments at 13; Pac Tel Comments at 13; U S WEST Comments at 20; USTA Comments at 5.

³¹ See Bell Atlantic Comments at 6.

affiliate.³² The BOCs' assertions of "permissible" sharing activities go beyond the pale.³³ The Commission should reject these transparent attempts to thwart the express intent of Congress.

In addition, section 274(b)'s independent operation requirement would become superfluous if the BOCs' interpretations are adopted. Independence does not mean that two companies share property, officers, directors, employees, strategic planning, regulatory management, research and development, public relations, and information services. In stark contrast to the separated affiliate envisioned by Congress, the separated affiliate envisioned by the BOCs is not one dealing at arm's length with the BOC as if the two were not under common ownership; rather, it is an entity whose overhead costs and operating expenses are subsidized by the captive ratepayers of its parent's local telephone monopoly. The Commission should reject BOC interpretations of the structural separation requirements which undercut the purpose of section 274.

³² A BOC may not "perform hiring or training of personnel on behalf of a separated affiliate" nor may it "perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate." Further, a BOC is equally prohibited from performing "research and development on behalf of a separated affiliate." 47 U.S.C. § 274(b)(7).

³³ See e.g., SBC Comments at 7 (asserting that "the Commission should conclude that to the extent that a BOC and a separated affiliate engage in joint marketing activities . . . the affiliate and BOC may employ individuals in common" despite the section 274(b)(5)(A) requirement that a BOC and its separated affiliate "have no . . . employees in common").

To ensure the efficiency of competitive markets and the effectiveness of rate regulation in regulated markets, the Commission must prohibit BOCs from jointly owning, leasing or sharing goods, facilities, or physical space with their electronic publishing affiliates and joint ventures. For the same reason, the Commission should prohibit the following: (1) BOC hiring or training of personnel on behalf of their electronic publishing affiliates and joint ventures; (2) BOC discriminatory provision of telephone services to its electronic publishing separated affiliates and joint ventures; and (3) sharing of a BOC's research and development work product with its electronic publishing separated affiliates and joint ventures. By implementing these protections, the Commission will take a significant step toward preventing the impairment of competition in electronic publishing which would result from BOC attempts to cross-subsidize and otherwise leverage their monopoly power.

IV. IF A BOC COMBINES ITS SECTION 272 SERVICES AND SECTION 274 SERVICES IN ONE AFFILIATE, THAT AFFILIATE'S OPERATIONS AND STRUCTURE MUST BE CONTROLLED BY THE TERMS OF BOTH SECTIONS.

Time Warner repeatedly has supported BOC provision of information services and electronic publishing services through the same separated affiliate so long as the BOCs cannot use the separated affiliate as a mechanism for circumventing the requirements of section 272 and section 274.³⁴ To prevent this

³⁴ See Time Warner Electronic Publishing Comments at 31; see also Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange

circumvention, the Commission must ensure that the combined affiliate is regulated by the terms of both sections 272 and 274 of the 1996 Act. Should the two sections contain differing standards, the stricter standard must apply to the combined affiliate. Further, both the electronic publishing and interLATA information service operations must be strictly separated from the BOC's local exchange monopoly.

With the exception of Ameritech,³⁵ BOC commenters argue that for BOC affiliates combining services regulated under section 272 and section 274, the applicability of a particular section should be determined on a service-by-service basis.³⁶ For example, BellSouth would have the Commission apply the section 274 joint marketing restrictions only to those services of the commingled entity related to the BOC's provision of electronic publishing.³⁷ The danger inherent in this approach lies in the difficulty of distinguishing and separating the provision of electronic publishing services and the provision of information services by a single entity. This identification difficulty will enable the

Area, CC Docket No. 96-149, Comments of Time Warner at 32 (filed Aug. 15, 1996) ("Time Warner Non-Accounting Safeguards Comments").

³⁵ Ameritech briefly recognizes that "the affiliate chosen to house both Section 272 and Section 274 services must comply with the separations requirements of both Sections." Ameritech Comments at 12 n.34. It does not, however, address the applicability of the joint marketing restrictions in sections 272 and 274 to the combined affiliate.

³⁶ See Bell Atlantic Comments at 7; BellSouth Comments at 16 n.37; NYNEX Comments at 5; Pac Tel Comments at 14; U S WEST Comments at 7.

³⁷ See BellSouth Comments at 16 n.37.

BOC affiliate to structure its offerings to avoid the more restrictive requirements of the two sections, effectively circumventing the safeguards Congress created.

By applying the terms of both section 274 and section 272 to all activities of the affiliate, the Commission will deter BOCs from circumventing the 1996 Act's structural safeguards. Further, this approach offers the benefit of administrative ease for the Commission, state public service commissions, and BOC electronic publishing affiliates: regulators will not have to analyze and determine the nature of every BOC affiliate service offering, nor will the BOC affiliate have to justify a particular regulatory treatment for every proposed service offering. In short, to give effect to Congress' structural safeguards and to realize administrative efficiencies, the Commission should apply both section 274 and section 272 to a BOC's commingled separated affiliate and to all of its service offerings.

Finally, any BOC affiliates offering interLATA information services, electronic publishing services, or both, must be wholly separated from the BOC local telephone monopolies, as well as from any BOC affiliate which itself is not separated from the BOC local telephone monopoly (such as an OVS or other video affiliate). It is likely that BOCs will offer electronic publishing services in tandem with their video offerings.³⁸

³⁸ See e.g., Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange

Although a BOC is permitted to offer video services through an affiliate that is not separated from its local exchange operations, any BOC video affiliate must not be allowed to offer electronic publishing services unseparated from the BOC's local exchange operations. In its OVS Rulemaking, the Commission declined to require structural separation of LEC video offerings.³⁹ The Commission must not permit the LECs to now use their video affiliates as a means of circumventing the statutory requirements of section 274.⁴⁰

Failure to adopt sufficient safeguards in this rulemaking will allow the BOC to achieve through its video business what Congress has otherwise forbidden. Congress did not create a system of structural safeguards designed to protect competition in electronic publishing and interLATA information services only

Area, CC Docket No. 96-149, Reply Comments of Pac Tel at 4 (filed Aug. 30, 1996).

³⁹ Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems, CS Docket No. 96-46, Second Report and Order (released June 3, 1996). In its Comments and Reply Comments in the OVS Rulemaking, Time Warner urged the Commission to structurally separate the LECs' video operations from their local exchange service operations. See Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems, CS Docket No. 96-46, Time Warner Comments at 5-9 (filed April 1, 1996) and Time Warner Reply Comments at 4-6 (filed April 11, 1996).

⁴⁰ The concerns surrounding LEC video affiliates arise in the context of BOC provision of interLATA information services under section 272, as well. See Time Warner Non-Accounting Safeguards Comments at 30-33; see also Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area, CC Docket No. 96-149, Time Warner Reply Comments at 8-10 (filed Aug. 30, 1996).

to have those safeguards rendered useless by the device of an unseparated video affiliate. The Commission must establish strong and clear safeguards at this time, including the requirement that the BOC video affiliate be separated pursuant to section 274 to the extent it also provides electronic publishing.

V. BOTH SEPARATED AFFILIATES AND JOINT VENTURES MUST BE OPERATED INDEPENDENTLY OF THE BOC.

BOC commenters addressed two issues that Time Warner discussed at length in its comments. In general, the BOCs argued that: (1) the restrictions placed on separated affiliates do not apply to joint ventures unless their application is explicit in the statute; and (2) the "operate independently" requirement is merely a broad standard given effect by the nine specific requirements which follow in the statute. Time Warner refuted these positions in its comments and herein reiterates the principles which underlie its recommendations to the Commission.

A. Exceptions For Joint Ventures Should Be Limited To The Express Terms Of The Statute.

Many BOCs assert that, where section 274 specifies requirements for separated affiliates, joint ventures are not subject to those restrictions.⁴¹ For example, Pac Tel asserts that sections 274(b)(5) and 274(b)(7) apply only with respect to separated affiliates.⁴² Time Warner cautions, however, that this does not give joint ventures carte blanche to ignore the

⁴¹ Ameritech Comments at 13; Bell Atlantic Comments at 5; Pac Tel Comments at 10, 11.

⁴² Pac Tel Comments at 10, 11.

independent operation requirement in the areas covered by those sections. Rather, the Commission must uphold the underlying framework of section 274 and guard against BOC circumvention of those provisions through joint ventures.⁴³ To the extent that the requirements of section 274(b)(5) and section 274(b)(7) are consistent with section 274(c)(2)(A)-(C), the Commission should apply sections 274(b)(5) and 274(b)(7) to joint ventures in order to ensure that BOCs and their joint ventures operate independently.

Similarly, SBC Communications maintains that section 274(b)(2)(A)-(C) sanctions certain activities by joint ventures, despite the independent operation requirement, because when a specific exception conflicts with the general independent operation requirement, "the more specific provisions should control."⁴⁴ SBC's argument is inapposite. Sections 274(c)(2)(A)-(C) permit a BOC, in limited circumstances, to provide inbound telemarketing, to engage in business and teaming arrangements, and to participate in and provide certain marketing services to joint ventures, and nothing more. Any expansion of these narrowly circumscribed provisions would render meaningless the independent operation requirement. Hence, the provisions of sections 274(c)(2)(A)-(C) should be construed narrowly.

⁴³ See Time Warner Electronic Publishing Comments at 14-15.

⁴⁴ SBC Comments at 13 n.11 (citing Morales v. Trans World Airlines, Inc., 504 U.S. 374, 384 (1992)).

B. Section 274 Requires BOCs To Operate Independently Of Their Separated Affiliates And Joint Ventures.

Most BOCs commented that the "operate independently"⁴⁵ standard in section 274 does not require additional regulations.⁴⁶ Some BOCs maintain that section 274 does not authorize or require the Commission to implement any regulations whatsoever.⁴⁷ However, the "operate independently" requirement is a fundamental principle on which section 274 is based. In order to prevent BOCs from leveraging their market power, separated affiliates and joint ventures must be required to deal with the BOCs on an arm's length basis as if they did not share common ownership.

The Commission has the authority to ensure that section 274's structural separation requirements are not circumvented and therefore must articulate how BOCs may interact with their separated affiliates and joint ventures.⁴⁸ The BOCs themselves disagree as to whether section 274's independent operation requirements apply differently to separated affiliates and joint ventures.⁴⁹ The Commission should apply the same independent

⁴⁵ See 47 U.S.C. § 274(b).

⁴⁶ See Bell Atlantic Comments at 6; BellSouth Comments at 12; NYNEX Comments at 8; Pac Tel Comments at 9; SBC Comments at 5; U S WEST Comments at 5.

⁴⁷ See Bell Atlantic Comments at 4-5; BellSouth Comments at 3, 10; NYNEX Comments at 8; Pac Tel Comments at 3; SBC Comments at 2 n.3; USTA Comments at 2-3.

⁴⁸ See Time Warner Electronic Publishing Comments at 12-13 (giving specific examples of how the Commission may enforce the independent operation requirement).

⁴⁹ See, e.g., BellSouth Comments at 11 ("the 'operated independently' standard has a different meaning for separated

operation standard to both separated affiliates and joint ventures.⁵⁰ Thus, with respect to independent operation, as with other complex areas of section 274, the Commission has the authority and obligation to ensure strict adherence to the structural separation required between BOCs and their separated affiliates and joint ventures.

affiliates and electronic publishing joint ventures"); cf. SBC Comments at 5 ("the statute contains no indication that Congress intended for the operational independence standard to be defined differently for a separated affiliate as opposed to a joint venture").

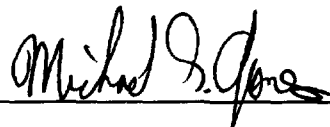
⁵⁰ See Time Warner Electronic Publishing Comments at 12 n.19.

VI. CONCLUSION

The Commission should adopt the recommendations contained herein in order to implement the intent of Congress by protecting local exchange service customers from BOC monopoly abuses and by facilitating the development of competition in the provision of electronic publishing services.

Respectfully submitted,

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I, Rosalyn Bethke, do hereby certify that on this 20th day of September, 1996, copies of the foregoing "Reply Comments of Time Warner Cable" were hand delivered to the following parties:

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